

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DALE E. WHITEHEAD,

Plaintiff,
v.
Honorable Thomas L. Ludington

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION, REMANDING FOR
FURTHER PROCEEDINGS, GRANTING IN PART AND DENYING IN PART
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, AND DENYING
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

This matter is before the Court on a report issued by Magistrate Judge Steven Whalen on February 9, 2012. In his report and recommendation, Judge Whalen addresses (1) Defendant's motion for summary judgment requesting that the decision that Plaintiff was found not to be disabled be affirmed and (2) Plaintiff's motion for summary judgment requesting that Commissioner's decision be reversed and benefits awarded in his favor or, in the alternative, that the case be remanded for further proceedings. Judge Whalen recommends denying Defendant's motion for summary judgment, granting in part and denying in part Plaintiff's motion for summary judgment, and remanding the case for further proceedings under the fourth sentence of 42 U.S.C. § 405(g).¹ As of today's date, no party has filed any objections to the magistrate judge's report and recommendation. The election to not file objections to the magistrate judge's report releases the

¹ While the introduction and conclusion of the report and recommendation suggests that Judge Whalen recommends granting Plaintiff's motion for summary judgment, the substance reflects that Judge Whalen recommends granting Plaintiff's request for remand of the case for further proceedings, but denying Plaintiff's request to reverse the Commissioner's decision and award benefits.

Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Accordingly, it is **ORDERED** that Judge Whalen's report and recommendation (ECF No. 11) is **ADOPTED**. The matter is **REMANDED** to the Commissioner for further proceedings consistent with the Judge Whalen's report and recommendation.

It is further **ORDERED** that Plaintiff's motion for summary judgment (ECF No. 9) is **GRANTED IN PART AND DENIED IN PART** and that Defendant's motion for summary judgment (ECF No. 10) is **DENIED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: February 24, 2012

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on February 24, 2012.

s/Tracy A. Jacobs
TRACY A. JACOBS